

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Alpha Ambulance, Inc.)	File No. EB-02-SJ-031
)	NAL/Acct. No. 200232680007
San Juan, Puerto Rico)	FRN 0005-9491-93
)	

FORFEITURE ORDER

Adopted: December 20, 2002

Released: December 23, 2002

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of ten thousand dollars (\$10,000) to Alpha Ambulance, Inc. (“Alpha”) for willful violation of Section 301 of the Communications Act of 1934, as amended, (“Act”)¹ and Section 1.903(a) of the Commission’s Rules (“Rules”).² The noted violation involves Alpha’s operation of radio transmission equipment without Commission authorization.

2. On June 21, 2002, the Commission’s San Juan, Puerto Rico Resident Agent Office (“San Juan Office”) issued a *Notice of Apparent Liability for Forfeiture* (“*NAL*”) to Alpha for a forfeiture in the amount of ten thousand dollars (\$10,000).³ Alpha filed a response to the *NAL* on July 16, 2002.

II. BACKGROUND

3. On April 23, 2002, the San Juan Office received, from the Commonwealth of Puerto Rico Medical Emergency Services, a complaint of interference affecting the frequency pair 463.100/468.100 MHz. The Commission has assigned these frequencies to the Public Safety Radio Pool and authorized their use solely for communications between medical facilities, vehicles and personnel involving treatment and transport of patients in the rendition or delivery of medical services.⁴ The complaint alleged that Alpha was causing interference to ongoing emergency medical communications. Commission records showed no license issued to Alpha for operation on these frequencies.

¹ 47 U.S.C. § 301.

² 47 C.F.R. § 1.903(a).

³ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232680006 (Enf. Bur., San Juan Office, released June 21, 2002). On July 2, 2002, the San Juan Office issued an erratum to correct the NAL/Acct. No. to 200232680007. *Erratum*, NAL/Acct. No. to 200232680007 (Enf. Bur., San Juan Office, released July 2, 2002).

⁴ See 47 C.F.R. § 90.20(c)(3) and (d)(76).

4. On May 6, 2002, an agent from the San Juan Office used direction finding techniques to locate radio transmissions on the frequency 468.100 MHz. The agent determined that the source of the transmissions on this frequency was a one-story building located at 1720 Eduardo Conde Avenue. A sign identified the building as the business offices of "Alpha Ambulance." Using direction finding techniques, the agent also determined that Alpha's ambulances were transmitting on the 463.100/468.100 MHz frequency pair.

5. On May 7, 2002, the agent went to the offices of Alpha and interviewed Ms. Milagros Montero. Ms. Montero stated that she and her daughter owned Alpha and admitted that Alpha operated radio transmission equipment on the 463.100/468.100 MHz frequency pair. When the agent asked to see the FCC license for the radio station, Ms. Montero provided a copy of a license issued to First Aid Ambulance, Inc. ("First Aid") for the frequency pair 463.100/468.100 MHz, call sign KNIG648, which had expired on April 8, 2001. Ms. Montero stated that First Aid had been owned by her ex-husband, his mother and his sister, that First Aid had dissolved about three years ago, and that Alpha had operated the radio equipment since that time. Ms. Montero was unable to produce any authorization for Alpha to operate on the frequency pair 463.100/468.100 MHz.

6. On June 21, 2002, the San Juan Office issued an *NAL* to Alpha for a \$10,000 forfeiture for operating radio transmitting equipment without Commission authorization in willful violation of Section 301 of the Act and Section 1.903(a) of the Rules. In its July 16, 2002, response to the *NAL*, Alpha does not deny the violation. However, Alpha asserts that it cannot afford to pay the proposed \$10,000 forfeiture and submits tax returns for 1998, 1999 and 2000 and a balance sheet for 2001 in support of this assertion.

III. DISCUSSION

7. The forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended, ("Act"),⁵ Section 1.80 of the Rules,⁶ and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) ("*Policy Statement*"). In examining Alpha's response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁷

8. Section 301 of the Act provides that no person shall use or operate any apparatus for the transmission of radio communications or signals within the United States, except under and in accordance with the Act and the rules and with a license granted under the provisions of the Act. Section 1.903(a) of the Rules provides that stations in the Wireless Radio Services must be operated only with a valid Commission authorization. Alpha does not deny that it operated radio transmission equipment on the frequency pair 463.100/468.100 MHz, which are assigned to the Public Safety Radio Pool for communications between medical facilities, vehicles and personnel involving treatment and transport of

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. § 1.80.

⁷ 47 U.S.C. § 503(b)(2)(D).

patients in the rendition or delivery of medical services, without Commission authorization. Accordingly, we conclude that Alpha willfully violated Section 301 of the Act and Section 1.903(a) of the Rules.

9. Alpha asserts that it cannot afford to pay the \$10,000 forfeiture proposed in the *NAL* and provides its tax returns for 1998, 1999, and 2000 and its balance sheet for 2001 in support of this assertion. The Commission has repeatedly held that a company's gross revenues are the best indicator of its ability to pay a forfeiture.⁸ After considering the financial information submitted by Alpha, we conclude that its gross revenues are sufficient to enable it to pay a \$10,000 forfeiture.

10. We have examined Alpha's response to the *NAL* pursuant to the statutory factors above, and in conjunction with the *Policy Statement* as well. As a result of our review, we conclude that Alpha willfully violated Section 301 of the Act and Section 1.903(a) of the Rules, and we find no basis for rescission or reduction of the \$10,000 forfeiture proposed for this violation.

IV. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that, pursuant to Section 503 of the Act, and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,⁹ Alpha Ambulance, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of ten thousand dollars (\$10,000) for willful violation of Section 301 of the Act and Section 1.903(a) of the Rules.

12. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.¹⁰ Payment may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200232680007 and FRN 0005-9491-93. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹¹

⁸ See *Long Distance Direct, Inc.*, 15 FCC Rcd 3297, 3305 (2000); *PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088, 2089 (1991).

⁹ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

¹⁰ 47 U.S.C. § 504(a).

¹¹ See 47 C.F.R. § 1.1914.

13. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by first class mail and certified mail return receipt requested to Alpha Ambulance, Inc., P.O. Box 19313, Fernandez Juncos Station, Santurce, Puerto Rico 00910.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau